

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE

ATTORNEYS

W. J. Bryan Henrie, D. O., separately and alone, for himself and other physicians licensed to practice obstetrics, similarly affected, or who may be so affected, and pregnant women who are denied their constitutional rights to abort unwanted pregnancies,

vs

//(substitute Larry Derryberry)
The Honorable G. T. Blankenship, Attorney General for the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma 73105;

(substitute Frank Grayson)
Tom May, Esq., District Attorney for District 13, Comprising Delaware and Ottawa Counties in the State of Oklahoma, County Courthouse, Miami, Oklahoma, 74354; and

(substitute Sam Harris)
Norman Smith, Esq., Assistant District Attorney, in the County of Delaware, District 13, in the State of Oklahoma, County Courthouse, Jay, Oklahoma, 74346

S.M. Fallis, Jr., Esq., District Atty for District 14, State of Oklahoma,

3-Judge Honorable Wm. J. Holloway, Jr.
Honorable Allen E. Barrow, Judge
Honorable Luther B. Eubanks, Jr.

Jack H. Petty, 6712 NW 38, Bethany, Ok.
(Amicus Curiae) for RESCU Com. 73008
of Oklahoma)

For plaintiff:

Pro Se; W. J. Bryan Henrie, D. O.
P. O. Box 337
Grove, Oklahoma 74344

Pat Malloy, Attorney 583-0301
Thurston Natl Bldg., Tulsa 74103

A.F. Ringold, Atty. 583-0301
McFarlin Bldg., Tulsa, Oklahoma 74103

For defendant:

Wm. M. Bonnell
G.T. Blankenship, Attorney General
State of Oklahoma
State Capitol Bldg.
Oklahoma City, Oklahoma 73105

Tom May, County Courthouse
Miami, Oklahoma 74354

Norman Smith
County Courthouse
Jay, Oklahoma 74346

Andy Allen (Fallis)
Asst. Dist. Atty.,

Continued
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STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 8-1-70	Clerk 8-1-70	1970 7-6 7-9	Henrie C.D. 2	15 00	1500
J.S. 6 mailed 5-1-73	Marshal				
Basis of Action: Complaint for declaratory and injunctive relief	Docket fee Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-6-70	Complaint filed and summons issued. ds	
7-16-70	Order granting 3 judge court filed. (David T. Lewis-J)h	
7-20-70	Summons returned & filed: served Norman Smith, Asst D. A. in Jay Okla, on 7-14-70. v (fee \$32.28)	
7-20-70	Summons returned & Filed: served Tom May, Asst. D.A. in Miami, Okla. on 7-14-70. v (\$32.28)	
7-22-70	Return on summons filed. Served G. T. Blankenship at Okla City on 7-8-70. (\$4.72). ds	
7-27-70	Order that Deft's filed brief for trial on or before August 15, 1970, <i>letter mailed</i> (AEB-J)v	
7-30-70	Minute Order: Court grants G.T. Blankenship, defendant additional 10 days in from this date in which to file answer. (AEB-J)h	
8-3-70	Minute Order: It is ordered by the court that this case is set for Hearing on the Merits, on September 9, 1970, (Wednesday) at 10:00 A.M. At the request of the Court, Attorneys Pat Malloy and A.F. Ringold agree to serve as officers of the Court for the plaintiff on a no pay bases. Both Trial Briefs and Amicus Curiae briefs to be filed 10 days before hearing. (AEB-J)h	
8-7-70 ✓	Defendants' Motion to Dismiss (G.T. Blankenship) with Brief in Support of Motion to Dismiss, filed. v	
8-7-70 ✓	Motion that Thomas H. May enter and join in with the same motion filed by G. T. Blankenship, filed. v	
8-7-70	Order that plaintiff is granted 10 days from this date to respond to Deft's Motion to Dismiss, FILED . (AEB-J)v	
8-10-70	Motion to Stay filed by Thomas H. May, Dist. Atty.	
8-10-70	Brief of defendants, Tom May, in support of motion to stay filed.h	
8-10-70	Motion of Norman J. Smith, Asst. Dist. Atty to join filed. h	
8-10-70	Minute Order: Plaintiff granted 10 days from this date to respond to defendant Thomas H. May's motion to Stay and Defendant Norman J. Smith's motion to join. (AEB-J)h	
8-12-70	Plaintiffs' response to motion to stay filed by Thomas H. May, filed.b	
8-14-70	It is ordered by the Court that case be stricken from the Docket of 9-9-70, to be reset by the Court after consideration of all responses to Motion to Stay. (AEB-J)v	
8-19-70	Response of defendant G. T. Blankenship to motion to stay, filed. ds	<i>letter mailed</i>
9-8-70	Case set for hearing on the merits, on Wednesday, Sept. 30, 1970 at 10:00 A.M., and hearing on all pending motions. (AEB-J)h	<i>letter mailed</i>
9-30-70	It is ordered that case stricken from docket of this date, at request of plaintiff; and to be reset. (AEB-J)h	
10-13-70	Ordered by the Court that this case be set for Motion hearings and Final Pleadings and Intervention on Friday, October 23, 1970 at 10:00 A.M. (AEB-J)v <i>Notice Mailed</i>	
10-20-70	Plaintiff's first amended complaint, filed. b	
10-21-70	Response to deft. G. T. Blankenship, Atty. Gen's Motion to dismiss and motion to stay, filed. m	
10-21-70	Notice of motion for intervention, filed. m	
10-21-70	Motion for leave to intervene as plaintiffs, filed. m	
10-22-70	Brief in support of motion for leave to intervene as plaintiffs, filed. m	
10-23-70	Hearing on motions held. Parties present and represented. Defendants objections to ruling on Motion to Intervene sustained, but court allows argument on Motion to Intervene if attorneys wish. Court grants parties 5 days to respond or object to Motion to Intervene. Defendant's objections	

DATE	PROCEEDINGS	Date Order or Judgment Noted
	to Three-Judge Court taken under advisement. Court requests supplemental briefs filed by parties within 10 days, and all pending motions are hereby taken under advisement. (Judges Holloway, Barrow and Eubanks.)h	
10-28-70	Objection of defendant G. T. Blankenship, Attorney General, to plaintiff's first amended complaint and objection to motion for leave to intervene as plaintiffs, filed. g	
10-20-70	Brief in support of defendant's objection to plaintiff's first amended complaint and objection to motion for leave to intervene as plaintiffs, filed. g	
10-28-70	Plaintiff directed to file response brief to defendant's objections within ten days. (AEB-J)g	
11-2-70	Supplemental brief in support of deft. G. T. Blankenship's motion to dismiss, filed. g (copies mailed to Judges)	
11-5-70	Brief in response to objections and briefs filed by the deft, the Honorable G. T. Blankenship, Attorney General, filed. m (copies mailed to Judges)	
11-20-70	Motion by Plaintiff to add defendant, filed. v	
11-20-70	Brief in support of Motion to add Defendant, filed. v	
11-20-70	Order that defendant is granted 10 days in which to respond to pltf's Motion to add defendant. (AEB-J)v	
11-27-70	Motion for Leave to amend complaint and Brief in Support, filed by Plaintiff. Filed. v (Brief in support attached)	
11-27-70	Withdrawal of response to Motion to Stay and amended response to Motion to Stay, filed by Plaintiff. Filed. v	
12-1-70	It is ordered that case set for hearing on motions, Friday, 12-4-70 at 10:00 A.M.(AEB-J)h	
12-4-70	Hearing held on motions and decision on motions heretofore heard. Parties present and represented. Witness sworn and testifies: W.J. Bryan Henrie. It is ordered by the court that plaintiff's motion to Intervene is granted. Motion to Dismiss of G.T. Blankenship is overruled without prejudice and motions to join in of Thomas H. May and Norman J. Smith are moot. Motion to Stay of Thomas H. May is denied. Motion to Add Additional Party Defendant is granted. Motion to file Second Amended Complaint is granted. Request for TRO of the Plaintiff is denied without prejudice. (Judges Holloway, Barrow, and Eubanks)h	
12-4-70	Plaintiff's Second Amended Complaint filed. h	
12-4-70	Complaint in Intervention filed. h	
12-9-70	Summons issued to deft. Fallis on first amended complaint, second amended complaint & complaint in intervention; summons on complaint in intervention issued to other 3 defts.m	
12-14-70	Memorandum and Order filed. Order as per hearing of 12-4-70, ruling on motions. It is further ordered that defendants, other than Fallis, serve their answers to Plaintiff's Second Amended Complaint with 20 days from 12-4-70, that Fallis serve his answer with 20 days, and that all defendants serve answer the Complaint in Intervention within 20 days, (AEB-J)h	
12-14-70	Reporter's Transcript of Proceedings of 12-4-70 attached to above.(LEM:CSR)h	
12-17-70	Return on summons, filed. Served Dist. Atty, Ottawa County, in Miami, Okla; served Dist. Atty, Delaware County, in Jay, Okla., both on 12-16-70. (Fees: \$34.32)m	
12-17-70	Return on summons, filed. Served Blankenship, Atty. Gen., State of Okla. in Okla. City on 12-10-70; served Fallis, Dist. Atty., Tulsa County, in Tulsa on 12-10-70. (Fees: \$7.72)m	
12-28-70	Answer to pltf's second amended complaint and answer to complaint in intervention, filed. m (over) (of Attorney General) Contd. Page #4	

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-29-70	Answer of defendant, S. M. Fallis, Jr., Esq. District Attorney for District 14, State of Oklahoma, to plaintiff's second amended complaint and answer to complaint in intervention, filed. b	
1-27-71	It is ordered that pre-trial order due by February 3, 1971; parties notified. (AEB-J)h	
2-1-71	Case set for hearing on merits on Thurs. Feb. 11, 1971 at 10:00 A.M. (AEB-J)h	
2-5-71	Motion of defendant, Norman J. Smith to file answer out of time, filed. ds	
2-5-71	Motion of defendant, Frank Grayson, D. A. to file answer out of time, filed. ds	
2-5-71	Order, that answer be filed, filed. (AEB-J) - as to Norman J. Smith. ds	
2-5-71	Order, that answer be filed, filed. (AEB-J) ds - as to Frank Grayson D. A.	
2-5-71	Answer of defendant, Norman J. Smith, filed. ds <i>copies mailed attys</i>	
2-5-71	Answer of defendant Frank Grayson, filed. ds <i>Judge</i>	
2-9-71	Ordered by the Court that this case is stricken from the assignment of Feb. 11, 1971, Thursday, for hearing on the merits. (Allen E. Barrow-J)b	
2-9-71	Plaintiff's Motion for Continuance, with attached affidavit. filed. r	
2-10-71	Order Granting Motion for continuance and resetting case for hearing on the merits - to be on March 1, 1971 at 10:00 A.M., filed. (AEB-J)r <i>copies mailed attys</i>	
2-10-71	It is ordered that Plaintiff's motion for continuance from setting of 2-11-71 is granted and the court being advised that all attorneys concur and there is no objection, and the case is stricken from the docket of 2-11-71 and reset on 3-1-71 at 10:00 A.M. for hearing on the merits. (AEB-J)h	
2-25-71	Stipulation Concerning the Testimony of Jane Roe, filed. js	
2-25-71	Stipulation Concerning Det's Interpretation of Okla. Abortion Laws filed. js	
2-25-71	Stipulation Concerning the Testimony of John Doe and MY Mary Doe, filed. js <i>all copies mailed to Jackson</i>	
2-25-71	Stipulation Concerning Abortion Laws adopted since 1966, filed. js	
3-1-71	Defendant's motion to dismiss (S. M. Fallis, Jr.) filed. ds	
3-1-71	Defendant's brief in support of motion to dismiss, filed. ds	
3-1-71	Return on subpoena, filed. Served Jacquelyn Longacre on 2-26-71. m	
3-1-71	Return on subpoena, filed. Served Harold E. Hill on 2-25-71 at Tulsa, Oklahoma. r	
3-1-71	Return on Civil Subpoena filed. Served Mark J. Weiss on 2-26-71 at Tulsa. h	
3-1-71	Defendants' list of witnesses filed. h	
3-1-71	Statement of Appearances for Plaintiff and Intervenors and list of witnesses expected to be called filed. h	
3-2-71	Pre-Trial Order filed. h	
3-1-71	Case trial to 3 Judge Court on March 1, 2 and 3, 1971, Hearing on the Merits. Court orders that Larry Derryberry be substituted for the Honorable G.T. Blankenship. Defendant Fallis granted leave to file ^{re-} new motion to dismiss and it is taken under advisement. Plaintiff granted 35 days to file trial brief and FF/CL, defendant granted 10 days to respond. Parties directed to furnish court with Certified copies of 1962 Conviction, Information and J&C of Dr. Henrie within 10 days and to attach it to formal filing of motion to dismiss. Court allows 30 days for filing of Amicus Curie Briefs. (Judges Holloway, Barrow and Eubanks.)h	
3-3-71	Exhibits filed. h	
3-26-71	Order of class action, filed and published. Persons within the classes defined residing in State of Okla. may file motions or briefs not exceeding 20 pages in length concerning constitutional validity on Okla. abortion laws & such papers shall be filed with Clerk on or before 4-23-71. (William J. Holloway, Jr., AEB, Luther E. Eubanks-J)m	
4-6-71	(copies mailed as directed in order) Proof of Publication filed. h	

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4-8-71	Transcript of trial proceedings (3 cpies), filed. (cpy mailed to Judges Holloway & Eubanks)	
4-12-71	Ordered by the Court that plaintiff have 10 days from this date to file brief, and defendant have 10 days from 4-22-71 to file brief. (AEB-J)g	
4-16-71	Brief of Amicus Curiae on behalf of RESCU Committee, filed: cpies mailed.	
4-22-71	Minute Order: It is Ordered that the briefs of Tony Ringold which are do on the 22nd of April, may be extend for 15 days from this date. (AEB-J) js	
5-7-71	Brief of Plaintiff and Intervenors, filed. r	
5-17-71	It is ordered that this case is set for hearing on final arguments on Thursday, June 3, 1971 at 10:00 A.M. (written notice to attys)(AEB-Jetc)h	
5-18-71	Brief of Defendant, S.M. Fallis, Jr. filed. h	
5-19-71	Brief of defendants Larry Derryberry, et al filed. h	
5-28-71	Proof of Publication filed. h	
6-3-71	Case called for Final Arguments. Parties present and represented. Defendant Fallis's renewed motion of 3-1-71 to dismiss remains under advisement. Final Arguments made, case submitted and decision taken under advisement. (Allen E. Barrow, Wm. J. Holloway, Jr. and Luther B. Eubanks.)h	
12-17-71	Ordered that in view of the fact that No. 70-18, Roe v. Wade, 70-40, Doe v. Bolton, and 70-27, Mitchum v. Foster, have been argued before the Supreme Court of the U.S. & circumstances being similar in some of these cases to this case, that decision in this case should be held up pending the Supreme Court decisions. (AEB, WJH, LBE-Judges)u	
1-26-73	It is Ordered that the parties are directed to submit, within 30 days of this date, memoranda stating their position. Such memoranda should refer to any current decisions of the United States Supreme Court and any other Federal Court decision. (AEB-J). js <i>notice sent</i>	
2-12-73	It is Ordered that the memorandum to be submitted as directed by the Court on January 26, 1973, include XXXXX also discussion of the opinion of the Oklahoma Court of Criminal Appeals in Jobe v. State, decided January 31, 1973, and further that the parties state their position as to proper disposition of the claims of Dr. Henrie, now deceased, as to maintenance of his claims, possible substitution of parties, and appropriate relief, if any, that should be granted on his claims. (AEB-J) js <i>notice sent to atty</i>	
2-20-73	Memorandum of Sam Harris, filed. r (Copies mailed to Judges)	
2-23-73	Memorandum of position and authorities, and motion for substitution of parties, filed on behalf of pltf. & intervenors. hm <i>Copies to members & judges</i>	
2-27-73	Memorandum of Defendant, filed. jj <i>copies to judges</i>	
2-27-73	Supplement to memorandum of position and authorities, and motion for substitution of parties, filed. hm <i>copies to judges</i>	
4-2-73	Memorandum opinion and order filed and entered. It is ordered that all relief is denied to the successors of Dr. Henrie the plaintiff; that relief by way of declaratory judgment granted prayer of Intervenors, Dr. Allison, Dr. Hladky and Rev. Wolf against the Atty Gen of Okla, et al adjudging that as to the intervenors and all others similarly situated are unconstitutional under due process clause of 14th amendment; and	

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4-2-73	<p>that the claims of the intervenors Dr. Allison, etal are dismissed without prejudice, the court concluding that it should abstain from a decision as to the validity of §714; that all other relief sought by any parties is denied. (Wm. J. Holloway, Jr., Allen E. Barrow, Luther B. Eubanks-Judge)h</p>	
	<p>Continued From page 1</p> <p><u>Amicus Curiae</u> Okla. Psychological 912 N.W. 57th St. Okla. City, Okla. 7</p> <p>Oklahoma Medical 601 N.W. Express Okla. City, 7?</p>	